

REMARKS

Claims 1-14 are currently pending in the Application. Claims 1, 4, 10 and 13 have been amended with this Response.

Claim Rejections Under 35 U.S.C. §102(a)

Claims 1-14 have been rejected under 35 U.S.C. §102(b) as being anticipated by et al. U.S. Patent No. 5,204,148 to Alexander (hereinafter referred to as “Alexander”). Applicant respectfully traverse.

Applicant’s amended claim 1 recites *inter alia*:

“positioning a roof waterproofing membrane atop all forgoing elements, wherein said roof waterproofing membrane is dimensioned to cover a substantially larger portion of said roof substrate than any of said at least one pieces of energy absorbing layers that are positioned to cover said individual fastener,” and

Applicant’s amended claim 4 recites *inter alia*,

“a roof waterproofing membrane positioned atop all foregoing elements, wherein said roof waterproofing membrane is dimensioned to cover a substantially larger portion of said roof substrate than any of said at least one pieces of energy absorbing layers that are positioned to cover said individual fasteners.”

Alexander does not teach a waterproofing membrane that is positioned atop discrete energy absorbing layer(s) and dimensioned to cover a substantially larger portion of a roof substrate than *any* energy absorbing layers positioned to cover individual fasteners. Instead, referring to Figures 3-4 and column 5 lines 12-13 in particular, Alexander teaches a waterproofing sheet 2 that covers the same dimension of the roof substrate 18, 19 as that which the Examiner terms as energy absorbing sheet 3. Thus, Alexander does not teach a waterproofing membrane that is positioned and dimensioned as recited in Applicant’s claims 1 and 4.

Referring now to Applicant's amended claim 13, there is recited *inter alia*,

“at least one individual piece of energy absorbing material positioned atop all forgoing elements and *any* waterproofing membrane associated with said roof substrate to discretely cover each individual fastener of said at least one fasteners.”

Alexander does not teach at least one energy absorbing layer positioned atop *any* waterproofing membrane associated with a roof substrate to discretely cover individual fasteners on the roof substrate. Instead, referring to Figures 2-4 and column 5 lines 12-13 in particular, Alexander teaches waterproofing sheet 2 to be disposed atop all layers (energy absorbing or otherwise) of the cover 1 and roof substrate 18, 19, and thus, Alexander does *not* teach any energy absorbing layer to be positioned above the waterproofing sheet 2. Therefore, Alexander does not teach waterproofing/energy absorbing layers to be positioned as recited in Applicant's claim 13.

Accordingly, for at least the reasons set forth hereinabove, Applicant respectfully submits that amended claims 1, 4, and 13, as well as claims 2-3, 5-6, 8-12, and 14 that depend variously therefrom, are not anticipated by Alexander.

Conclusion

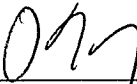
All of the rejections are herein overcome. No new matter is added by way of the present Remarks, as support is found throughout the original filed specification, claims, and drawings. Notice of Allowance is respectfully requested.

If the Examiner has any questions regarding the instantly submitted response, Applicant's attorney respectfully requests the courtesy of a telephone conference to discuss any matters in need of attention.

Applicant hereby petitions for any necessary extension of time required under 37 C.F.R. 1.136(a) or 1.136(b) which may be required for entry and consideration of the present Reply.

If there are any additional charges with respect to this response or otherwise, please charge them to Deposit Account No. 06-1130 maintained by Applicants' attorney.

Respectfully submitted,
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